

1 NGC Case No. 02-07

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3
4 STATE OF NEVADA
5 BEFORE THE STATE GAMING CONTROL BOARD
6

7 In the Matter of the Exclusion of:)
8)

9 TOMMY GLENN CARMICHAEL,)

10 From Licensed Gaming Establishments)
11 In the State of Nevada)

FINAL ORDER OF EXCLUSION

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13 On February 20, 2003, the State Gaming Control Board (Board) entered its an order
14 nominating TOMMY GLENN CARMICHAEL as a candidate to the "List of Excluded Persons"
15 pursuant to NRS 463.151 through 463.155 and Nevada Gaming Commission Regulation 28.
16 After being personally served with the Notice of Candidacy and Order of Nomination to List of
17 Excluded Persons on December 12, 2002, CARMICHAEL failed to request a hearing before
18 the Nevada Gaming Commission (Commission) per NRS 463.153(1).
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20 On January 28, 2003, CARMICHAEL was served with a Bill of Particulars by certified
21 mail to his last known addresses at 4751 S. Hudson Place, Tulsa, OK 74135-6923 and T.C.
22 Global, 4942 E. 49th Street Tulsa Oklahoma 74135. On January 29, 2003, CARMICHAEL
23 was served with a Notice of Hearing by certified mail to the same addresses. Finally on
24 February 10, 2003, CARMICHAEL was served with an Amended Notice of Hearing by
25 certified mail to the same addresses.
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1 This matter came before the Commission on February 20, 2003. CARMICHAEL being
2 duly noticed of the hearing, did not appear. JENNIFER CARVALHO, Deputy Attorney
3 General, represented the Board.

4 Having reviewed and carefully considered all of the evidence presented and the
5 arguments of counsel, the Commission voted unanimously to place CARMICHAEL on the List
6 of Excluded Persons. Therefore, the Commission, believing it to be fully advised on the facts
7 and issues before it, finds as follows:

8 FINDINGS OF FACT

9 1. The Commission has jurisdiction in this matter pursuant to NRS 463.153(1).

10 2. The sole issue before the Commission is whether the Board has proved by a
11 preponderance of the evidence, at least one of the criteria set forth in NRS 463.151(3) to
12 place CARMICHAEL on the list of Excluded Persons. See Nev. Gaming Comm'n Regs.
13 7.230, 28.010(2).

14 3. The Nevada "[L]egislature hereby declares that the exclusion or ejection of
15 certain persons from licensed gaming establishments which conduct pari-mutuel wagering or
16 operate any race book, sports pool or games, other than slot machines only, is necessary to
17 effectuate the policies of . . . [the Nevada Gaming Control Act] and to maintain effectively the
18 strict regulation of licensed gaming." NRS 463.151(1); see *a/so* NRS 463.0129.

19 4. The Nevada Legislature has authorized the Commission to provide by regulation
20 for the establishment of a list of persons who are to be excluded or ejected from the licensed
21 gaming establishments as set forth in paragraph 1 of this order. See NRS 463.151(2).
22 Furthermore, the Nevada Legislature has authorized the Commission to include on such list of
23 excluded persons any person whose presence in such a licensed gaming establishment is
24 determined by the Commission to pose a threat to the interests of the State of Nevada or to
25 licensed gaming or both. See *id.*

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1 5. The Commission has duly promulgated and adopted regulations establishing a
2 List of Excluded Persons and governing the administrative procedures related thereto. See
3 Nev. Gaming Comm'n Reg. 28.

4 6. The Nevada Legislature has provided that the Board may nominate and the
5 Commission may so include a person on the List of Excluded Persons by reason of the fact
6 that such person has a "[p]rior conviction of a crime which is a felony in this state or under the
7 laws of the United States, a crime involving moral turpitude or a violation of the gaming laws of
8 any state." NRS 463.151(3)(a).

9 7. The Nevada Legislature has further provided that the Board may nominate and
10 the Commission may so include a person on the List of Excluded Persons by reason of the
11 fact that such person has a "[n]otorious or unsavory reputation which would adversely affect
12 public confidence and trust that the gaming industry is free from criminal or corruptive
13 elements." NRS 463.151(3)(c).

14 8. The Commission has also determined that a finding of any one of the criteria set
15 forth in NRS 463.151(3) is sufficient to place the name of an individual on the List of Excluded
16 Persons. See Nev. Gaming Comm'n Reg. 28.010(2).

17 9. The Commission has further determined that "[e]vidence of notorious or
18 unsavory reputation . . . may be established by identification of a person's criminal activities in
19 published reports of various federal and state legislative and executive bodies that have
20 inquired into various aspects of criminal activities." Nev. Gaming Comm'n Reg. 28.010(3).

21 10. The race, color, creed, national origin, ancestry or sex of CARMICHAEL is not
22 and has not been considered for placing his name upon the List of Excluded Persons.

23 11. CARMICHAEL has been convicted of the following felony crimes:

24 a. CARMICHAEL is a person who has been convicted of several
25 felony crimes under the laws of the United States. a. PEOPLE OF THE
26 STATE OF COLORADO v. TOMMY G. CARMICHAEL, in the District
27 Court of the Fourth Judicial District, County of El Paso, Colorado, Case
28 No. 19136. Pursuant to the judgment entered on or about September 14,
1973, CARMICHAEL pled guilty to one felony count of dispensing
amphetamines in Colorado in violation of Colorado Revised Statutes
1963 as amended, 48-8-2 & 48-8-10.

b. THE STATE OF NEVADA v. TOMMY GLENN CARMICHAEL, in the Eighth Judicial District Court, County of Clark, Case No. C72973. Pursuant to the judgment entered on or about May 6, 1986, Carmichael pled guilty to one felony count of Cheating at Gambling in Nevada in violation of NRS 465.070 and 465.088.

c. THE STATE OF NEW JERSEY V. TOM G. CARMICHAEL, in the Superior Court of New Jersey, Atlantic and Cape May Counties, Case No. 463154C. Pursuant to the judgment entered on or about September 6, 2000, Carmichael pled guilty to use of a cheating device in New Jersey in violation of New Jersey statute 4 5:12-114B(2).

d. UNITED STATES OF AMERICA v. TOMMY GLENN CARMICHAEL, in the United States District Court, District of Nevada, Case No. CR-S-99-290-HDM (RJJ). Pursuant to the judgment entered on or about September 7, 2001, Carmichael pled guilty to one felony count of engaging in an illegal gambling business; aiding and abetting in Nevada Federal Court in violation of 18 USC § 1955 and § 2.

12. CARMICHAEL is a person of notorious or unsavory reputation whose presence would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive elements. This reputation is established as follows:

- and
- (a) CARMICHAEL has felony convictions referenced in paragraph 11 above;
 - (b) CARMICHAEL has associations with persons listed on the List of Excluded Persons

CONCLUSIONS OF LAW

1. Pursuant to Nevada Gaming Commission Regulations 28.070(1) and 7.230(1), the evidence before the Commission establishes by a preponderance that CARMICHAEL's felony convictions, as well as his violation or conspiracy to violate the Nevada Gaming Control Act and his notorious and unsavory reputation satisfies the criteria set forth in NRS 463.151(3) (a) & (c) for inclusion of CARMICHAEL on Nevada's List of Excluded Persons. As a result, CARMICHAEL's presence in a licensed gaming establishment would adversely affect public confidence and trust that licensed gaming is conducted honestly and is free from criminal and corruptive elements. Moreover, CARMICHAEL's association with licensed gaming is inconsistent with the legislative mandate that public confidence and trust can only be

maintained by strict regulation of gaming and all persons, locations, practices, associations, and activities related to the operation of licensed gaming establishments.

2. Based upon all of the above, the presence of CARMICHAEL in any licensed gaming establishment which conducts pari-mutuel wagering or operates a race book, or a sports pool, or games, other than slot machines only, poses a threat to the interests of the State of Nevada and licensed gaming.

3. Should any of the foregoing Conclusions of Law be deemed Findings of Fact, they shall be so construed. Based on the foregoing, and good cause appearing:

IT IS HEREBY ORDERED that CARMICHAEL be, and hereby is placed on the list of persons to be excluded or ejected from any licensed gaming establishment in the State of Nevada which conducts pari-mutuel wagering or operates any race book, sports pool or games, other than slot machines only.

DATED this ____ day of February 2003.

NEVADA GAMING COMMISSION

PETER C. BERNHARD, Chairman

Submitted by:

BRIAN SANDOVAL
Attorney General

By: _____

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